

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

DEMETRIUS FLOYD,

Petitioner,

Case No. 8:14-CV-2290-T-27AEP
8:12-CR-65-T-27AEP

UNITED STATES OF AMERICA,

Respondent.

_____ /

O R D E R

This cause comes on for consideration of Petitioner's Request for a Certificate of Appealability (D-18) and Petitioner's motion stuled "Timely Filing of a COA Request with Request to Hold in Abeyance the Motion Pending Resolution of the Pending Motion for Relief from the Judgment" (D-19).

By order dated March 18, 2015, the Court denied Petitioner's § 2255 motion. The Court further denied Petitioner a certificate of appealability. (D-13.) Petitioner sought relief from that order pursuant to Rule 60(b), Fed.R.Civ.P. (D-15.) By order dated May 21, 2015, the Court dismissed Petitioner's motion for relief from judgment. (D-17.)

Prior to Petitioner's receipt of the May 21, 2015 order, he mailed his request for a certificate of appealability and request that the motion be held in abeyance pending a ruling on the motion for relief from judgment. As the Court has already disposed of the motion for relief from judgment, Petitioner's motion to hold his

request for certificate of appealability in abeyance is moot.

With regard to his request for certificate of appealability, Petitioner contends that the Court's denial of a certificate of appealability in its March 18, 2015 order was premature. However, pursuant to Rule 11(a) of the Rules Governing Section 2255 Proceedings for the United States District Courts, the "district court must issue or deny a certificate of appealability when it enters a final order adverse to the applicant." Id. In denying a certificate of appealability, the Court found that Petitioner failed to "demonstrate reasonable jurists would find the district court's assessment of the constitutional claims debatable or wrong" or that "the issues presented were adequate to deserve encouragement to proceed further." (D-13, p. 20, citations omitted.)

To the extent that Petitioner seeks the Court reconsider the denial, the Court has considered the arguments raised by Petitioner and finds a certificate of appealability is unwarranted. The Court therefore declines to amend its March 18, 2015 ruling in any respect. The Court's previous ruling of March 2015 is confirmed. Petitioner may seek a certificate of appealability from the Eleventh Circuit. See Rule 11(a) of the Rules Governing Section 2255 Proceedings for the United States District Courts.


IT IS ORDERED that:

- 1) Petitioner's Request for a Certificate of Appealability

(D-18) is DENIED.

2) Petitioner's Timely Filing of a COA Request with Request to Hold in Abeyance the Motion Pending Resolution of the Pending Motion for Relief from the Judgment (D-19) is DENIED as moot.

DONE AND ORDERED at Tampa, Florida this 29th day of May, 2015.



WILLIAM J. CASTAGNA
SENIOR UNITED STATES DISTRICT